



D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

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June 7, 2011

VIA HAND DELIVERY

Eva K. Taylor, Town Clerk
Acton Town Hall
472 Main Street
Acton, MA 01720

RECEIVED
JUN - 7 2011

TOWN CLERK, ACTON

RE: Gary Hamel, Sr. and Jill Primmer
100 Willow Street
Board of Appeals Petition for Review

Dear Ms. Taylor:

Enclosed for filing please find original and seven (7) copies of the following:

1. Board of Appeals (Form 1) Petition for Review, filed with the Board of Appeals this day on behalf of Gary Hamel, Sr. and Jill Primmer relative to the property situated at 100 Willow Street, Acton, Massachusetts, appealing the Decision of the Zoning Enforcement Officer dated May 9, 2011. A copy of said Decision is attached to the Petition, together with Attachment A and copy of location plan, plot plan and Abutters List;
2. Signed authorization for Beacon Community Newspaper to bill our firm directly; and
3. Check in the amount of \$100.00 to cover the cost of filing the Petition.

Very truly yours,
GARY HAMEL, SR. and JILL PRIMMER
By Their Attorneys,
D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.

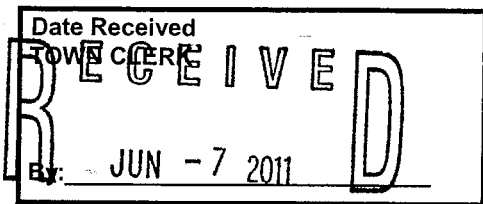
By: 

F. Alex Parra
e-mail: faparra@dlpnlaw.com

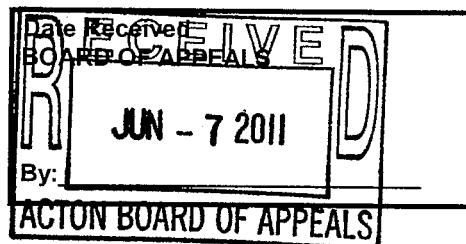
FAP/jmd
Enclosures (24)

cc: Board of Appeals – Via Hand Delivery
Zoning Enforcement Officer – Via Hand Delivery
Client

Civil\Hamel\Letter to Town Clerk



Town of Acton
Massachusetts



TOWN CLERK, ACTON

Board of Appeals
(Form 1)
Petition for Review

June 7 20 11
(See (1) Below)

I/We hereby petition the Board of Appeals for a public hearing under Section 11.1.1 of the Zoning By-law to review (a) the refusal of the Zoning Enforcement Officer to grant a permit under Section _____ of the Zoning By-law to allow: (b) the refusal of the Zoning Enforcement Officer to enforce the provisions of Section _____ of the Zoning By-law as follows: (Strike out inapplicable language)

Decision of the Zoning Enforcement Officer dated May 9, 2011 ("Decision"), as
said Decision is not in accordance with the provisions of the Acton Zoning Bylaw,
including, without limitation, for the reasons set forth in Attachment A hereto.

A copy of said Decision is also attached hereto.

Date of Zoning
Enforcement Officer's Action May 9, 2011

- (1) Petition must be filed within 30 days
of refusal date with copy of decision
or order attached.

OFFICE USE ONLY

Seven copies of petition? _____

Location Map? _____

Plot plans? _____

Additional briefs? _____

List of abutters and
other interested
parties? _____

Fee - \$100.00/1-25 abutters?
\$125.00/26 + abutters? _____

Next Hearing Date? _____ # _____

Respectfully submitted,

Signed [Signature]
(Petitioner) Gary Hamel, Sr.

Name Jill Primmer

Address 100 Willow Street, Acton, MA 01720

Phone # (978) 877-7390

Signed _____
(Owner of Record)

Name _____

Address _____

Phone # _____

The Board of Appeals has the power and duty to hear and decide appeals (Section 11.1.1) from a decision of the Zoning Enforcement Officer

Revised 1/4/10

ATTACHMENT A

Board of Appeals (Form 1) Petition for Review (continued)

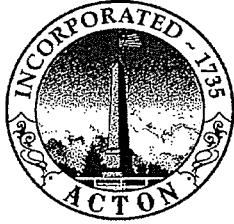
Petitioner: Gary Hamel, Sr. and Jill Primer

Property: 100 Willow Street, Acton, Massachusetts

Decision: Zoning Enforcement Officer's letter dated May 9, 2011

Petitioners' accessory use of the premises at 100 Willow Street complies with the requirements of Section 3.8.1.1 (private garage . . . for not more than four motor vehicles) and 3.8.1.2 (home occupation) of the Acton Zoning Bylaw because, *inter alia*, (a) there are no retail sales; (b) it is/will be conducted entirely within the dwelling or a proposed accessory garage; (c) it is conducted solely by a resident; and (d) it does not employ any persons.

Contrary to the Decision herein appealed, the Zoning Bylaw, including Sections 1.3.19 and 3.8.1.2, does not restrict home occupations to "customary" home occupations, nor does it contain any of the other descriptions or restrictions set forth in the Decision, nor does the Petitioners' home occupation fall within any of the categories which the Decision alleges are prohibited by the Zoning Bylaw. The only restrictions on home occupations are those set forth in Section 3.8.1.2 of the Zoning Bylaw.



Zoning Enforcement Officer

TOWN OF ACTON
Planning Department
472 Main Street
Acton, Massachusetts 01720
Telephone: (978) 929-6631
Fax : (978) 929-6340
planning@acton-ma.gov
www.acton-ma.gov

May 9, 2011

Gary Hamel Sr. & Jill Primmer
100 Willow Street
Acton, MA 01720

Re: Illegal Use of land
100 Willow Street, Acton, MA 01720
Certified Mail # 7009 0820 0001 3220 8592

Dear Mr. Hamel & Ms. Primmer,

Please accept this communication as an addendum to my previously-issued March 10, 2011 letter. This memo includes additional information and determinations from this office.

After further thought and deliberation regarding your residential property and the operation of your home based business at the aforementioned property, I CAN NOT allow you to continue the operation of your salvage/construction business at this location.

Although Zoning Bylaw Section 3.8.1.2 allows home occupations as permitted Accessory Uses, the scope and type of your business lies outside of the realm of a customary home occupation. Zoning Bylaw, Section 3.8.1.2 contemplates and allows for home occupations such as architects, accountants, attorneys, consultants, insurance agents, writers and editors, computer programmers, catering for off-site consumption, tutoring, individual services relating to music, art or dance lessons, or a small art studio for use by painters, sculptors or craftsmen. The preceding uses are those which are customarily viewed as acceptable home based businesses within a residential neighborhood.

Conversely, Zoning Bylaw Section 3.8.1.2 does not consider uses such as automobile or equipment repair, servicing, storage, painting or detailing, contractor or salvage operations, medical services, pest control, or veterinary and pet care services such as grooming or doggie day care or kennels of any size as acceptable home based occupations.

Further, the intent of Zoning Bylaw Section 3.8.1.2 does not support a customary home based occupation which would require the parking or overnight storage of vehicles with a gross vehicle weight of more than 10,000 pounds. A customary home based business located within a

residential zoning district does not seem to realistically warrant or require the use or storage of heavy vehicles or equipment in order to conduct its daily business operations. A home based business should also not generate additional noise or glare in excess of what is typical within a residential neighborhood. The home based occupation authorized under the Zoning Bylaw is one which does not change or alter the essential residential character of the surrounding neighborhood.

If you disagree with and wish to seek relief from the determination set forth in this memo, you may submit an application for a Petition for Review to the Zoning Board of Appeals challenging the administrative decision of the Zoning Enforcement Officer. Should you wish to exercise this option, Zoning Board of Appeals information can be obtained by contacting Ms. Cheryl Frazier, Secretary to the Zoning Board of Appeals at (978) 929-6633 during regular business hours.

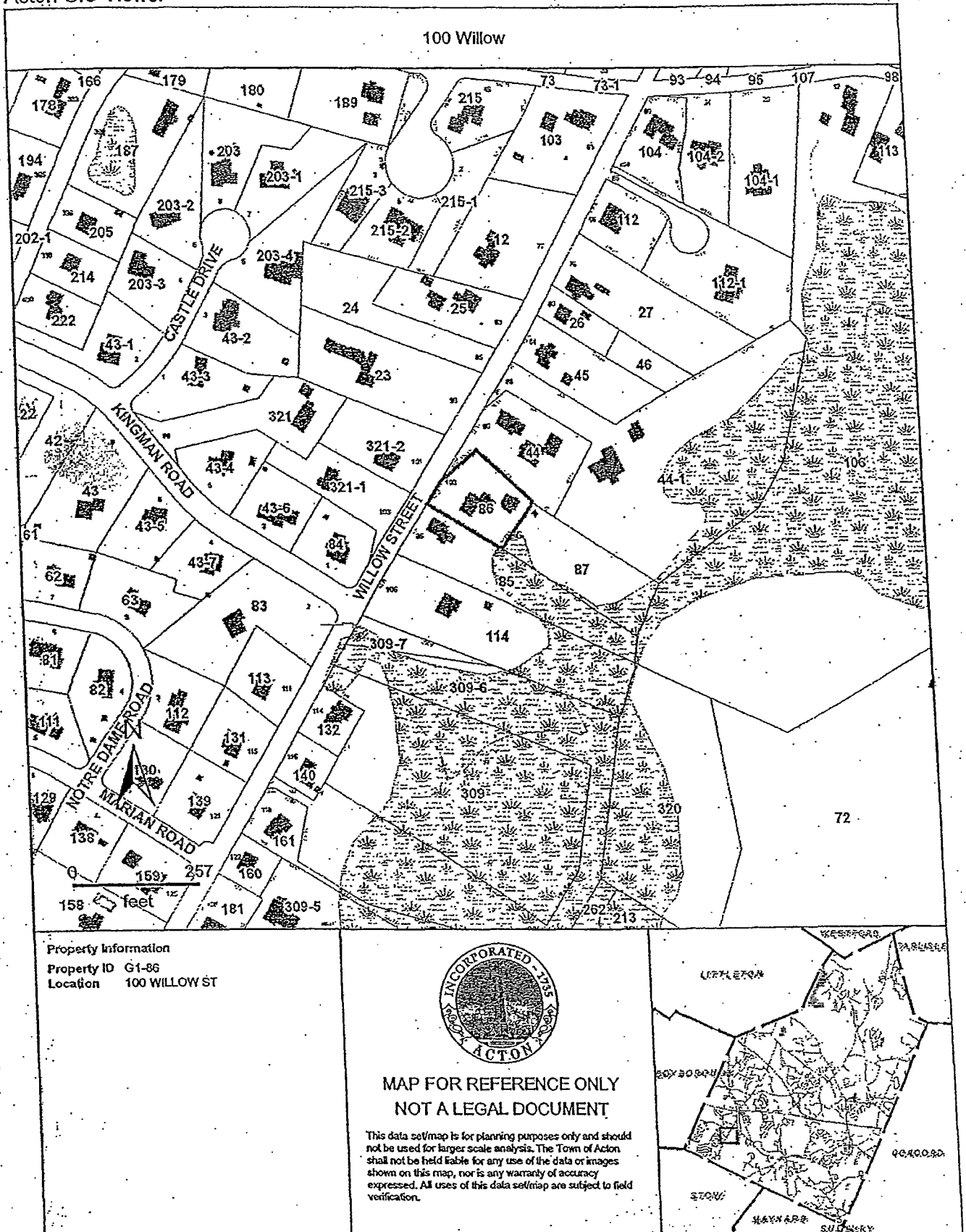
If you have any questions, comments or concerns regarding this matter, please feel free to contact our office at (978) 929-6631, Monday through Friday (except holidays) between the hours of 8:00 am and 5:00 pm.

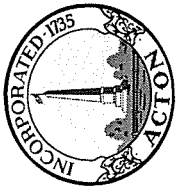
Sincerely,



Scott A. Mutch
Zoning Enforcement Officer

Cc: Lou Levine, D'Agostine, Levine, Parra & Netburn, P.C.





Town of Acton
472 Main Street
Acton, MA 01720
Telephone (978) 929-6621
Fax (978) 929-6340

Brian McMullen
Assistant Assessor

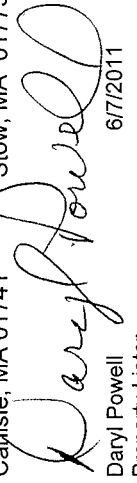
Parcel Location 100 Willow Street and 100 Willow Street Behind
Parcel I.D.: G1-86 and G1-87

Location	Parcel ID	Owner	Co-Owner	Mailing Address	City	ST	Zip
12 SUMMER ST	F2-B-106	MADDEN JR PAUL B	MADDEN JOY C	12 SUMMER STREET	ACTON	MA	01720
77 WILLOW ST	G1-12	FENTON JAMES TRUSTEE	FENTON REALTY TRUST	PO BOX 985	ACTON	MA	01720
93 WILLOW ST	G1-23	WILSON DALE W	WILSON MARY A	93 WILLOW STREET	ACTON	MA	01720
85 WILLOW ST	G1-24	SISSON CHARLES B JR	MARSHA	83 WILLOW ST	ACTON	MA	01720
83 WILLOW ST	G1-25	SISSON CHARLES B JR	MARSHA	83 WILLOW ST	ACTON	MA	01720
80 WILLOW ST	G1-26	COLETTI SARAH J		80 WILLOW ST.	ACTON	MA	01720
5 KINGMAN RD	G1-43-4	WILLIAMS F DOUGLAS	WILLIAMS CHARLOTTE E	5 KINGMAN RD	ACTON	MA	01720
3 KINGMAN RD	G1-43-6	LI NAIXIN	SONG YU	3 KINGMAN RD	ACTON	MA	01720
84 WILLOW ST	G1-45	MORRIS JANE	NEPTUNE WILFORD H	84 WILLOW STREET	ACTON	MA	01720
80 WILLOW ST	G1-46	COLETTI SARAH J		80 WILLOW ST	ACTON	MA	01720
2 KINGMAN RD	G1-83	DIGUETTE SUSAN		2 KINGMAN RD	ACTON	MA	01720
1 KINGMAN RD	G1-84	VISOCCHI DAVID R	VISOCCHI PATRICIA A	1 KINGMAN RD	ACTON	MA	01720
102 WILLOW ST	G1-85	RED ACRE DEVELOPMENT		22 ELM ST	ACTON	MA	01720
106 WILLOW ST	G1-114	OSBORN JEREMY	OSBORN KRISTIN	106 WILLOW ST	ACTON	MA	01720
110 WILLOW ST	G1-309	LI MING	CHEN CHANGQING	110 WILLOW ST	ACTON	MA	01720
112 WILLOW ST	G1-309-6	SONG KENING	LI XIAO YAN	112 WILLOW ST	ACTON	MA	01720
108 WILLOW ST REAR	G1-320	TOWN OF ACTON		472 MAIN STREET	ACTON	MA	01720
99 WILLOW ST	G1-321	DUBOIS CAROL A		99 WILLOW ST	ACTON	MA	01720
103 WILLOW ST	G1-321-1	WU SAMUEL	YU HUAILING	103 WILLOW ST	ACTON	MA	01720
101 WILLOW ST	G1-321-2	FRAIZER KALETA B		101 WILLOW ST	ACTON	MA	01720
90 WILLOW ST	G1-44	BAJWA SUKHJINDER		88 WILLOW ST	ACTON	MA	01720
88 WILLOW ST	G1-44-1	BAJWA SUKHJINDER		88 WILLOW ST	ACTON	MA	01720
162 CENTRAL ST	G2-72	TOWN OF ACTON		472 MAIN STREET	ACTON	MA	01720

Abutters and owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

**HEARING NOTICES FOR ALL SPECIAL PERMITS MUST BE SENT TO THE
PLANNING BOARD, TOWN HALL IN THE FOLLOWING TOWNS:**

Boxborough, MA 01729 Maynard, MA 01754 Concord, MA 01742 Littleton, MA 01460
Carlisle, MA 01741 Stow, MA 01775 Westford, MA 01886 Sudbury, MA 01776


Daryl Powell
Property Lister
Acton Assessors Office
6/7/2011